

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

STAFF REPORT

Hearing Date/Agenda Number
September 24, 2003 Item: 3.b.

File Number
CP02-073

Application Type
Conditional Use Permit

Council District
5

Planning Area
Alum Rock

Assessor's Parcel Number(s)
481-25-078

PROJECT DESCRIPTION

Completed by: Elena Lee

Location: South side of East San Antonio Street approximately 110 feet easterly of Oakland Avenue

Gross Acreage: 2.26

Net Acreage: 2.26

Net Density: N/A

Existing Zoning: R-1-8 Residential

Existing Use: Church

Proposed Zoning: No change

Proposed Use: No change

GENERAL PLAN

Completed by: EL

Land Use/Transportation Diagram Designation
Medium Low Density Residential (8 DU/AC)

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: EL

North: Residential

R-1-8 Residential

East: Residential

R-1-8 Residential

South: Residential

R-1-8 Residential

West: Residential

R-2 Residential

ENVIRONMENTAL STATUS

Completed by: EL

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: EL

Annexation Title: Capitol No. 47

Date: 02/01/1986

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date:

Approved by: _____
☐ Action
☐ Recommendation

APPLICANT/OWNER/DEVELOPER

Saint Paul Missionary Baptist Church
Attn: Archie Carter
2674 Gumdrop Drive
San José, CA 95148

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: EL

Department of Public Works

See attached

Other Departments and Agencies

See attached memorandum from the Fire Department

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Saint Paul Baptist Missionary Church, is requesting a Conditional Use Permit (CUP) to allow the demolition of 876 square feet and a 15,291 square foot expansion of an existing church on a 2.25 gross acre site located in the R-1-8 Residence Zoning District. The Zoning Code requires a CUP for a church use in this zoning district.

The Conditional Use Permit will also serve as a Site Development Permit for modifications to the site including the demolition and addition to the existing structure, interior remodeling, façade changes and several site improvements. The expansion will include a 4,056 square foot fellowship hall and approximately seven class rooms for church purposes. The new facility is proposed to be used for church related meetings and Sunday school classes.

The project is located south of East San Antonio Street, approximately 110 feet easterly of Oakland Road. Single-family residential uses are located to the north, south, east and west.

ENVIRONMENTAL REVIEW

The Director of Planning, Building and Code Enforcement has determined that this project is exempt from further environmental review under the provisions of the California Environmental Quality Act (CEQA). The proposed project is limited to a minor expansion of an existing structure and the introduction of a use that would not result in any environmental impacts.

GENERAL PLAN CONFORMANCE

This project is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC) in that new Public/Quasi-Public uses are allowed in any General Plan designation if the use is compatible with surrounding uses and is consistent with City policy. As discussed below, staff has determined that the proposed

use is compatible with adjacent uses and consistent with City policy regarding the location of churches.

ANALYSIS

The primary issues associated with this project are compatibility with the surrounding neighborhood and conformance to the Church Location Policy.

Land Use Compatibility

Land use compatibility is of potential concern in that the project site is located in proximity to a residential neighborhood. The subject site is located within an active area on a fairly busy street, approximately a block from Mayfair Park, Cesar Chavez Elementary School and Matson Lee Middle School. The proposed expansion of the existing church would be in the interior of a very large lot. The project includes a 25-foot landscaped front yard and approximately 5-foot landscaping strip along the interior property lines. The development also would provide landscaping and 6-foot tall masonry walls along the property perimeter adjacent to residential neighbors, to provide additional buffering. The permit would also be conditioned to prohibit lighting fixtures from exceeding 12 feet in height to prevent light from impacting neighboring residential properties.

Conformance to the Zoning Code standards also helps to establish land use compatibility. The project conforms to the setback requirements of the subject residential zoning district, and will provide substantial new landscaping. The proposed addition will create a primarily one-story 28-foot tall building, with a tower element that brings the total height to 35 feet, which meets the Zoning Code maximum for the single-family residential districts. The building also includes a cross placed above the tower that extends the height to 40 feet. The Zoning Code allows architectural embellishments, such as a cross, mounted on a building and having a horizontal cross section of no more than 20 square feet, to be increased to a height of 40 feet provided that it does not exceed the height of the building on which it is mounted by more than five (5) feet. This architecture and scale would be consistent with the height and size of neighboring residential uses.

The proposed project will meet the Zoning Ordinance's parking requirement. Religious assemblies or churches are required to provide one parking space per four fixed seats or one per 30 square foot of area designed for assembly. The new expanded building includes a 367 fixed seat primary worship space, which would require 90 spaces. The project also includes a 4,056 square foot multi-purpose "fellowship" room adjacent to the primary worship space, which would require 137 spaces. However, use of this space would be restricted to the times when the sanctuary is not in operation. Because both spaces would not be allowed to be in use at the same time, parking has been provided for the use that would require the largest number of spaces, the multi-purpose room. The permit will include a condition that will require that both spaces be used at separate times.

Based upon the above analysis, staff has determined that the proposed design and location of the expansion of the church is a compatible land use.

Church Location Policy

The project is generally consistent with all the criteria outlined in the Church Location Policy, except that it will not include a 25 foot setback along all four property lines. The project will provide the recommended 25 foot setback along the front, rear and west side boundary. However, it will provide a 15-20 foot setback along the east side boundary. As noted above, the project will meet the setback required by the Zoning Ordinance for uses in the R-1-8 Residential Zoning District. Additionally, the interface along this boundary is not particularly sensitive because it is facing the rear of the adjacent properties which have a 20 foot setback. The neighboring residential uses will also be buffered by a 6 foot tall masonry wall. Thus, staff has determined that proposed 15-20 foot setback along the east side will be sufficient to meet the intent of this requirement. The project has also been carefully designed to be compatible with the neighborhood. The project is compatible with the surrounding neighborhood, provides all required parking and circulation onsite and provides substantial landscaping.

CONCLUSION

The project fully complies with the requirements of the City's Zoning Ordinance and adequately conforms to City Council Policies.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties within 500 feet of the project site and staff has been available to discuss the project with any interested parties.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Low Density Residential (8 DU/AC) on the adopted *San José 2020 General Plan Land Use/Transportation Diagram*.
2. The project site is located in the R-1-8 Residential Zoning District.
3. Under the provisions of Section 15301 of the *State Guidelines for Implementation of the California Environmental Quality Act (CEQA)*, this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
4. The project site is 2.14 acres in area.
5. The project site is presently occupied with a church, approximately 5,185 square feet in area.

6. The project site is located on the south side of East San Antonio, approximately 110 feet east of Oakland Road. There are primarily single-family residential uses to the north, south, east and west.
7. The applicant is proposing a Conditional Use Permit (CUP) to expand an existing church. A Conditional Use Permit is required in all Zoning Districts for a church.
8. This CUP will also serve as a Site Development Permit for modifications to the building and the project site, including an 873 square foot demolition, construction of a 15,137 square foot building addition, addition of 137 parking spaces at the rear of the building and landscaping.
9. The Zoning Ordinance requires church uses to provide one parking space for every four seats in the building. The project proposes a maximum of 360 fixed seats and is providing a total of 137 on-site parking spaces. Use of other rooms in the church is restricted to times when the sanctuary is not fully occupied.
10. The maximum height of the building will be 35 feet. The building also includes a cross element that will extend the height of the building to 40 feet. The Zoning Code (Section 20.30.300) allows architectural embellishments, such as a cross, mounted on a building and having a horizontal cross section of no more than 20 square feet, to be increased to a height of 40 feet provided that it does not exceed the height of the building on which it is mounted by more than five (5) feet.

This Planning Commission concludes and finds, based upon an analysis of the above facts, that:

1. The proposed project is consistent with the adopted *San José 2020 General Plan Land Use/Transportation Diagram* designation of Medium Low Density Residential (8 DU/AC).
2. The proposed project complies with all provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act (CEQA).
4. The project is in compliance with City Council Policy 6-21, *Church Location Policy*.
5. The Under the provisions of Section 20.80.440(A) of the San José Municipal Code, except as specifically exempted by Section 20.80.450, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100.
 - a. The Director of Planning has considered the following in evaluating the proposed demolition.
 - 1) The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.
 - 2) The failure to approve the permit would jeopardize public health, safety or welfare.

- 3) The approval of the permit would not negatively impact the supply of existing housing stock in the City of San José.
 - 4) Both inventoried and non-inventoried buildings, sites and districts of historical significance should not be negatively impacted.
 - 5) Rehabilitation or reuse of the existing building would not be feasible
 - 6) The approval of the demolition of the building should facilitate a project which is compatible with the surrounding neighborhood.
 - 7) The demolition of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.
- b. Further, the Director of Planning concludes and finds, based on the analysis of the above facts, that:
- 1) The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.
 - 2) The proposed project is in conformance with the California Environmental Quality Act.
 - 3) The benefits of permitting the demolition, removal or relocation of the subject building outweigh the impacts of the demolition, removal or relocation.
- c. Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Section 20.80.440(B) of the San José Municipal Code, the demolition of the subject structure.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:

- a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
- b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners or the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "St. Paul Missionary Baptist Church," dated November 20, 2002, and last revised on August 4, 2003, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).

3. **Plan Revisions.** Within 60 days of the issuance of this Permit and prior to recordation, the Applicant shall revise the project plans to include the item(s) listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall render this permit null and void.
 - a. Lighting plan – provide information on the location and equipment for all proposed lighting.
4. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
5. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
6. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
7. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
8. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures. All lighting, including lighting fixtures and building lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property. Electroliers shall not exceed 12 feet above grade.
9. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
10. **Roof Equipment.** All roof equipment shall be screened from view.
11. **Outside Storage.** No outside storage is permitted.
12. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
13. **Street Trees.** Street trees shall be planted along the East San Antonio Street frontage to the satisfaction of the Director of the Department of Streets and Traffic. A permit for this is required from the Department of Streets and Traffic, (408) 277-4373.
14. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.

15. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-09643) to the satisfaction of the Director of Public Works:

- a. *Sewage Fees:* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- b. *Geology:*
 - 1) A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - 2) The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the Project Engineer and/or City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- c. *Sanitary:* The project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.
- d. *Electrical:*
 - 1) Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
 - 2) Replace existing HPS luminaires in electroliers along project frontage with LPS luminaires.
- e. *Street Improvements:*
 - 1) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - 2) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
 - 3) Proposed driveway width to be 26'.
 - 4) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- f. *Traffic:* An in-house traffic analysis has been performed and has determined that this project does not generate excess AM/PM peak hour traffic and is in conformance with the current City level of service policy under the following conditions:

? This project will not include any Monday through Friday activities during AM/PM peak hour periods (i.e. daycare, after school care, evening activities, leasing of facilities for events, etc.).

- g. *SNI*: This project is located within the **Mayfair** SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
 - h. *Minor Improvement Permit*: The applicant will be required to satisfy all Public Works conditions prior to the issuance of a Public Works Clearance. The clearance will require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes plans, insurance, bonds/deposit certificate, and engineering and inspection fees.
16. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans*. This permit file number, CP02-073, shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans With Disabilities Act*. The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
17. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
18. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
19. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
20. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
21. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
22. **Church Seating.** No more than 360 seats shall be provided in the sanctuary at any one time.
23. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

24. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
25. **Fellowship/Multi-Purpose Room.** The area indicated as a “Fellowship/Multi-Purpose Room” on the approved site plan shall not be used concurrently with the “Sanctuary”.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
 2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 350, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of a Development Permit, Development Variance, Development Exception or other approval was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.
- c: Building Division (2)
Engineering Services
Attachments